

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN LOWRY et al.,	:	
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Plaintiffs,	:	
	:	21-CV-7861 (JMF)
-v-	:	
	:	<u>ORDER</u>
GABRIEL EDELMAN et al.,	:	
	:	
Defendants.	:	
	:	
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JESSE M. FURMAN, United States District Judge:

In December 2022, the Court referred this case to Magistrate Judge Wang for an inquest following entry of default judgment as to liability. *See* ECF Nos. 211 & 212. On February 15, 2024, Magistrate Judge Wang issued a Report and Recommendation noting that Plaintiffs had “not provided competent evidence to support their damages claimed.” ECF No. 224, at 21. Magistrate Judge Wang nevertheless offered provisional damages recommendations, to be awarded only “if Plaintiffs provide[d] evidence to support these damages.” *Id.* at 22. In the “alternat[ive],” she recommended “denial of any award in light of Plaintiffs’ haphazard and incomplete filings.” *Id.* at 22 n.18.


On February 20, 2024, the Court issued an Order clarifying that it would “treat Magistrate Judge Wang’s Report and Recommendation as recommending denial of any damages award unless Plaintiffs file timely objections together with adequate evidence to substantiate” the damages they seek. ECF No. 225. Plaintiffs timely filed submissions styled as motions for reconsideration, including affidavits and other evidence that purportedly support their claimed damages. *See* ECF Nos. 227 & 229; *see also* ECF No. 231. Their submissions also object to,

among other things, Magistrate Judge Wang’s recommendation as to damages regarding the Celsius tokens, contending that a different rule for calculating appropriate damages should have been used. *See* ECF No. 227, at 23-25; ECF No. 229, at 6-8.

The Court construes Plaintiffs’ submissions as motions for reconsideration or motions to reopen and/or supplement the record rather than objections to the Report and Recommendation *per se*. In light of that, it makes more sense for the new submissions to be considered by Magistrate Judge Wang in the first instance. Accordingly, the Court refers the new submissions to her for a supplemental report and recommendation addressing whether and to what extent Plaintiffs’ belated submissions should be considered (including whether they should be construed as motions for reconsideration, motions to reopen and/or supplement the record, or as something else) and what impact, if any, those submissions have on her previous recommendations.¹ With the exception of the limited extension granted to Plaintiff Lowry to file certain additional documents no later than 5:00 p.m. on March 4, 2024, *see* ECF No. 231, the record is now closed and no further submissions will be accepted or considered.

SO ORDERED.

Dated: March 1, 2024
New York, New York



 JESSE M. FURMAN
 United States District Judge

¹ Plaintiffs’ contentions that their failure to previously submit documentary evidence was justified by their purported belief that an evidentiary hearing would be held, ECF No. 227, at 2; ECF No. 229, at 1-2, border on frivolous. Magistrate Wang’s Order dated December 22, 2022, made clear that “Plaintiffs’ proposed damages figures should be supported by documentary evidence and/or one or more affidavits establishing the proposed figures” and “notifie[d] the parties that [Magistrate Judge Wang] may conduct this inquest solely on the written submissions of the parties.” ECF No. 213. The Court reserves judgment on whether or to what extent Plaintiffs’ submissions should nevertheless be considered — issues that Magistrate Judge Wang should address in the first instance in her supplemental report and recommendation.